

230805

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FINANCE DOCKET NO. 35536**

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**LOUISVILLE & INDIANA RAILROAD  
PETITION FOR DECLARATORY ORDER**

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**ENTERED  
Office of Proceedings  
AUG 12 2011  
Part of  
Public Record**

**CITY OF JEFFERSONVILLE'S PETITION TO INTERVENE**

The City of Jeffersonville ("City"), by counsel, hereby petitions the Surface Transportation Board to grant the City leave to intervene as a party in the above-captioned proceeding pursuant to 49 C.F.R. § 1112.4. The City of Jeffersonville tenders and attaches hereto as Exhibit 1, the City of Jeffersonville's Response to Petition for Declaratory Order. The City respectfully requests that the tendered Response to Petition for Declaratory Order be filed as of the date on which the City of Jeffersonville's Petition to Intervene is granted, should the Petition to Intervene be granted. In support of this petition, the City states as follows:

**I. Introduction**

On July 20, 2011, Louisville & Indiana Railroad ("L&I") petitioned the Surface Transportation Board (the "Board") to issue a declaratory order. L&I's Petition for Declaratory Order is based on the approval by the Rail Office of the Indiana Department of Transportation ("INDOT") of the City's petition to approve a grade crossing over tracks owned by L&I (the "City's Grade Crossing Petition"). The grade crossing proposed by the City is part of a project to extend an existing road to provide a needed north-south transportation route (the "Main Street Extension").

## **II. The City Has a Substantial Interest in This Proceeding**

The City has a significant interest in the subject matter of this proceeding, as it is the City's Grade Crossing Petition that forms the basis of this action. The Main Street Extension is designed to address identified transportation needs in the City of Jeffersonville, and the grade crossing is a necessary part of that project. (Aug. 11, 2011 Lanz Aff., ¶ 14, Ex. A to City of Jeffersonville's Response to Petition for Declaratory Order, Ex. 1). The relief sought by L&I would impair the City's interests if the Board issues a declaratory order finding that INDOT does not have jurisdiction to approve the City's Grade Crossing Petition. Such a finding would essentially prevent the City from moving forward with the Main Street Extension, and critical transportation needs of the community would not be addressed.

## **III. The City's Intervention Will Not Unduly Disrupt the Schedule or Unduly Broaden the Issues**

This action is in its early stages, and no schedule has been set for the proceeding. Thus, intervention by the City will not disrupt the proceedings or cause prejudice to L&I. Nor will the City's intervention unduly broaden the issues raised in the proceeding because the City will be addressing the same issues L&I raised in its Petition for Declaratory Order. Moreover, there are no other parties in this proceeding that will adequately represent the City's interests.

Filed herewith is the City's tendered Response to L&I's Petition for Declaratory Relief that demonstrates that INDOT's approval of the City's Grade Crossing Petition is not preempted by the Interstate Commerce Commission Termination Act. Should the Board decide to institute a declaratory order proceeding, the City will file verified statements as appropriate in accordance with the schedule set by the Board.

WHEREFORE, the City of Jeffersonville respectfully requests that it be granted intervention as a party in this proceeding and further that the City of Jeffersonville's Response to Petition for Declaratory Order be file marked on the date on which the City of Jeffersonville's Petition to Intervene is granted and for all other relief as is proper.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

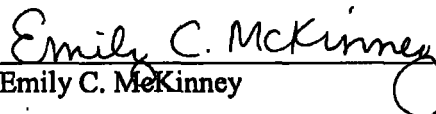
Service of the foregoing City of Jeffersonville's Petition to Intervene was made by placing a copy of the same into the United States Mail, first class postage prepaid, this 11th day of August, 2011, addressed to:

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